



Nevada State Board of Massage Therapy

NOTICE OF PUBLIC MEETING

LOCATIONS:	Office of the Attorney General 100 North Carson Street, Mock Court Room Carson City, NV 89701
	Videoconference To: Grant Sawyer Building – Las Vegas 555 East Washington Avenue, Suite 4500 Las Vegas, NV 89101
DATE:	November 7, 2018
TIME:	9:30 a.m. PDST

MEETING MINUTES

Please Note: The Nevada State Board of Massage Therapy may 1) take agenda items out of order; 2) combine two or more items for consideration; or 3) remove an item from the agenda or delay discussion related to an item at any time. Reasonable efforts will be made to assist and accommodate individuals with disabilities who wish to attend the meeting. Please contact Sandy Anderson at 775.687.9951 (sjanderson@lmt.nv.gov), in advance, so that arrangements may be made. Public comment will be taken at the beginning and the end of the meeting. The Board may convene in closed session to consider the character, alleged misconduct, professional competence or physical or mental health of a person (NRS 241.030).

1. Call to order and roll call of Board Members. Chair – Diane Huleva, Vice Chair – Deirdre Strunk, Secretary/Treasurer – Elisabeth Barnard, April Whiting, Margaret Westcamp, Teresa Lopez, Bob Oliver, Nancy Zitko, Sgt. Mark Menzie, Executive Director Sandy Anderson, Board Council Colleen Platt and Chief Deputy Attorney General Greg Ott. Lorna Benedict was not in attendance.

2. Public comment. (Discussion Only) Action may not be taken on any matter brought up under public comment until scheduled on an agenda for action at a later meeting.

Victoria Sadiki – Congratulations to the new Board, I am real happy you selected a new Board to represent us and that Sandy Anderson is continuing as Executive Director.

3. Probation Review for Anthony Gilyard Jr. – NVMT #9083 pursuant to Section 7 of the Probation Order issued by the Board on November 28, 2017. (The Board may convene in closed session to consider the character, alleged misconduct, professional competence or physical or mental health of a person.) (For Possible Action)

Anthony Gilyard Jr. was present.

Deirdre Strunk motioned to approve four (4) additional years of probation with table massage, quarterly reports to Executive Director and background checks at every year at this expense. Mr. Gilyard cannot be self-employed, seconded by Diane Huleva. Margaret Westcamp and Teresa Lopez opposed. Motion carried.

4. Formal Hearing for Juhua Lu – NVMT #8563 – NVMT- C-1859. (The Board may convene in closed session to consider the character, alleged misconduct, professional competence or physical or mental health of a person.) (For Possible Action)

Juhua Lu not present.

April Whiting motioned to accept settlement agreement, seconded by Teresa Lopez. Motion carried unanimously.

5. Formal Hearing for Haitao Zhang – NVMT #9274 – NVMT-C-1876. (The Board may convene in closed session to consider the character, alleged misconduct, professional competence or physical or mental health of a person.) (For Possible Action)

Haitao Zhang was present.

Board Counsel Colleen Platt requested to have this hearing dismissed. No motion needed.

6. Formal Hearing for Christopher Whitehead – NVMT #6435 – NVMT-C-1855. (The Board may convene in closed session to consider the character, alleged misconduct, professional competence or physical or mental health of a person.) (For Possible Action)

Christopher Whitehead not present.

Colleen Platt request to move forward based off NRS.622A.350.

Board Chair Diane Huleva swore in Executive Assistant Tereza VanHorn.

Tereza VanHorn testified Mr. Whitehead was properly noticed for today's meeting. Notification was sent out to current mailing address at least 30 days prior to the meeting.

Deirdre Strunk motioned to approve Mr. Whitehead was properly served, seconded by April Whiting. Motion carried unanimously.

April Whiting motioned to accept the alleged facts in the complaint are true and support the violation of the law, seconded by Deirdre Strunk. Motioned carried unanimously. Teresa Lopez was not present during the vote.

Elisabeth Barnard motioned to accept the violation of law of NRS. 640C.700(8), seconded by Deirdre Strunk. Motioned carried unanimously. Teresa Lopez was not present during vote.

April Whiting motioned to revoke license for ten (10) years, seconded by Teresa Lopez. Motion carried unanimously.

7. Formal Hearing for Xiu Hua Liu – NVMT #891 – NVMT-C-1860. (The Board may convene in closed session to consider the character, alleged misconduct, professional competence or physical or mental health of a person.) (For Possible Action)

Xiu Hua Liu not present, Kirk Kennedy, Ms. Liu legal counsel was present.

Board Counsel Colleen Platt and Kirk Kennedy have agreed to the stipulation of facts only. Ms. Liu has agreed to the alleged facts of Item 1, 2 minus the last sentence, 3 and 4.

Teresa Lopez motioned to accept the facts 1, 2 minus the last sentence, 3 and 4, seconded by Deirdre Strunk. Motion carried unanimously.

Teresa Lopez - I do not appreciate the fact we keep referring to the previous “thing” in 2010 as a “thing”. The previous “thing” was also solicitation of prostitution. She has now been arrested twice for solicitation of prostitution while performing massage. I do not care if it was 8 years or 8 days apart. She was arrested twice and the previous Board allowed a 45 day suspension with fines that was suggested by legal counsel. Solicitation of prostitution while performing massage was illegal the first time.

Teresa Lopez motioned to find Ms. Liu in violation of NRS 640C.700 (9)(4), seconded by April Whiting. Motion carried unanimously.

Teresa Lopez motioned to revoke Ms. Liu’s license for ten (10) years with cost not to exceed \$1,000.00, seconded by April Whiting. Motion carried unanimously.

8. Formal Hearing for Hong Z. Ou – NVMT #425 – NVMT-C-1863. (The Board may convene in closed session to consider the character, alleged misconduct, professional competence or physical or mental health of a person.) (For Possible Action)

Hong Z. Ou present, Wei Mei Borgel, interpreter present, Kirk Kennedy, Ms. Ou legal counsel was present.

Board Chair Diane Huleva swore in Hong Z. Ou and Wei Mei Borgel.

Board Counsel Colleen Platt and Kirk Kennedy have agreed to the stipulation of fact. Ms. Ou has agreed to the alleged facts of Item 1, 2 minus the last sentence, 3 and 4 with the following change: Ms. Ou was not arrested; the fines were imposed as she had staff that was arrested, and 5.

Teresa Lopez motioned to accept stipulations of fact, seconded by Deirdre Strunk. Motion carried unanimously.

April Whiting motioned to find Ms. Ou in violation of count 1 and 2, seconded by Teresa Lopez. Motion carried unanimously.

Teresa Lopez motioned to revoke Ms. Ou's license for ten (10) years with cost not to exceed \$1,000.00 based on NRS 640C.700 (4)(9) violation of law of count 1 and 2, seconded by April Whiting. Motion carried unanimously

9. Discussion and review of Citation Appeals. (For Discussion and Possible Action)

a. Jia Zhen Zou

Jia Zhen Zou not present, Kirk Kennedy, Ms. Zou legal counsel was present.

Teresa Lopez motioned to uphold the citation, seconded by Elisabeth Barnard. Motion carried unanimously.

b. Jamile M. Owens

Jamile M. Owens was present.

Board Chair Diane Huleva swore in Compliance Inspector Christy Brunner and Detective Joe Novotni with Las Vegas Metro Police Department.

Testimony was received from Ms. Owens regarding the incident. Ms. Owens denied the allegations. During her testimony Ms. Owens admitted to massaging during the appointment.

April Whiting motioned to uphold the citation, seconded by Teresa Lopez. Motion carried unanimously.

10. Application Review. (The Board may convene in closed session to consider the character, alleged misconduct, professional competence or physical or mental health of a person.) (For Possible Action)

a. Review Application of Ashley Kolarek. (For Discussion and Possible Action)

Ashely Kolarek was present.

Deirdre Strunk motioned to approved 2 year probationary license with: quarterly updates from employer with background check every year at licensee's costs, random drug testing at licensee's expense, cannot work as an independent contractor, probation review by the Board at the end of the current probationary term, and any contact with law enforcement must be reported to the Board within twenty four (24) hours, seconded by Teresa Lopez. Bob Oliver opposes. Motion carried.

b. Review Application of Surrenda L. Sylvester. (For Discussion and Possible Action)

Teresa Lopez motioned to approve license, seconded by Deirdre Strunk. Motion carried unanimously.

11. Approval of applications approved and authorized by the Chairperson through September 30, 2018. (For Possible Action)

April Whiting motioned to approve, seconded by Margaret Westcamp. Motion carried unanimously.

12. Discussion and possible action regarding financial reports and budgetary approvals (For Discussion and Possible Action)

a. Discussion and possible action regarding review of the Fiscal year 2019 Budget verses Actual Year-To-Date. (For Discussion and Possible Action)

Teresa Lopez motioned to approve budget, seconded by Elisabeth Barnard. Motion carried unanimously.

b. Discussion and possible action regarding adding an alarm system to the Southern Nevada office location including increasing the budget to cover costs. (For Discussion and Possible Action)

Item 12 b and 12 h were combined.

c. Discussion and possible action regarding approval of paying for Nancy Zitko to take Legislative 101 offered by the American Reflexology Certification Board at a cost of \$500 and reimburse her for her time for xx hours or xx days. (For Discussion and Possible Action)

Item 12c and Item 12d were combined.

d. Discussion and possible action regarding approval of paying for Board members to participate in the Certified Public Official Program offered by the University of Nevada, Reno Extended Studies in partnership with Nevada Association of Counties, Nevada League of Cities and Municipalities, and Nevada Association of School Boards including reimbursing for time and for xx days and travel. (For Discussion and Possible Action)

April Whiting motioned to approve payment or reimbursement for Nancy Zitko and Elisabeth Barnard to take the course and to complete a report. Time to take the course is considered donated time, seconded by Margaret Westcamp. Motion carried unanimously.

- e. Discussion and possible action regarding sending representatives from the Board to the FARB Forum January 24 through 27, 2019. (For Discussion and Possible Action)

Teresa Lopez motioned to not send any participants to FARB and incorporate items into retreat in 2019, seconded by April Whiting. Motion carried unanimously. Elisabeth Barnard was not present for vote.

- f. Discussion and possible action regarding hiring a communications consultant. (For Discussion and Possible Action)

No discussion was held. No motion was made.

- g. Discussion and possible action regarding hiring a lobbyist at a rate of between \$24,000 and \$40,000 if the Board decides to pursue changes to the NRS during the 2019 Legislative Session. (For Discussion and Possible Action)

Item 12g, 19, 20, 21, 22, 23, 24, 28 were combined.

- h. Las Vegas office update including approval of adding the purchase of blinds/curtains, table and chairs for the kitchen/conference room area, refrigerator, and signage. (For Discussion and Possible Action)

Teresa Lopez motioned to approve alarm system with a budget of \$10,000.00 to cover additional expenses, seconded by April Whiting. Motion Carried unanimously.

Elisabeth Barnard, Secretary/Treasurer – While discussion has been going on, I am wondering why a move in checklist or a permit of occupancy didn't get completed. I am livid that a previous employee whom is no longer with us; who had no clue or no care about this or the process. Now we are stuck holding the bag. I pray that this was not a completely god awful idea and a bad move for the wrong reasons and we are going to be in the hole as a Board.

- 13. Discuss, amend and approve Board meeting minutes. (For Discussion and Possible Action)

- a. July 25, 2018

April Whiting motioned to approve July 25, 2018 meeting minutes with changes, seconded by Teresa Lopez. Motion carried unanimously.

- b. September 5, 2018

April Whiting motioned to approve September 5, 2018, seconded by Deirdre Strunk. Motion carried unanimously.

c. October 17, 2018

Item tabled until January 23, 2019 Board meeting.

14. Inspection Team Report and informational training regarding the flow and process of investigations. (For Discussion)

Inspector Brunner explained the investigative process and flow to the Board including information on how a complaint gets to the hearing stage and what causes a complaint to not make it before the Board as in situations of insufficient evidence.

Inspection team numbers and investigation process were presented. No motion needed.

15. Discussion and possible action regarding modifying the existing complaint form. (For Discussion and Possible Action)

No discussion was held. Item tabled until a later date.

16. Discussion and possible action regarding approval of programs meeting the criteria of NAC 640C. (For Discussion and Possible Action) (See attached list)

- a. Massage Therapy Programs
- b. Reflexology Programs
- c. Structural Integration Programs

Item a, b, and c were combined. April Whiting motioned to approve additional programs, seconded by Teresa Lopez. Motion carried unanimously.

17. Discussion and possible action regarding the Nevada State Board of Massage Therapy Policies and Procedures. (For Discussion and Possible Action)

- a. Review of recommended changes to policies approved on September 5, 2018
 - i. 1.5.1 – Travel and Per Diem
 - ii. 5.1.1 – Internal Control Monitoring and Evaluation
 - iii. 5.2.1 – Reserves Policy
 - iv. 8.1.1 – Board Compensation
- b. 10.2.1 – Description of Chairperson
- c. 10.3.1 – Description of Vice Chairperson
- d. 10.4.1 – Description of Secretary/Treasurer
- e. 10.5.1 – Description of Executive Director

No discussion was held. Item tabled until a later date.

18. Discussion and possible action regarding the usage of FSMTB's Massage Therapy Licensing Database (MTLD). (For Discussion and Possible Action)

No discussion was held. Item tabled until a later date.

19. Discussion and possible action regarding amending NRS 640C or NAC 640C to require that a licensee have a minor's parent or guardian in the treatment room when providing massage therapy, reflexology, or structural integration. (For Discussion and Possible Action)

Item 12g, 19, 20, 21, 22, 23, 24, 28 were combined. Item tabled until a later date.

20. Discussion and possible action regarding amending NRS 640C or NAC 640C to allow reflexologists who have been licensed by a Nevada county or municipality to practice reflexology for two (2) or more years to submit a portfolio review in lieu of the educational requirements set forth in regulation. (For Discussion and Possible Action)

Item 12g, 19, 20, 21, 22, 23, 24, 28 were combined. Item tabled until a later date.

21. Discussion and possible action regarding compliance with the October 1, 2018 deadline for licensure of reflexologists statewide. (For Discussion and Possible Action)

Item 12g, 19, 20, 21, 22, 23, 24, 28 were combined. Item tabled until a later date.

22. Discussion and possible action regarding adding a regulation to prescribe the requirements for a written Nevada jurisprudence examination covering Chapter 640C of NRS and NAC that the Board will require to obtain and maintain a license and the possible frequency for taking the exam to maintain a license. (For Discussion and Possible Action)

Item 12g, 19, 20, 21, 22, 23, 24, 28 were combined. Item tabled until a later date.

23. Discussion and possible action regarding adding a continuing education course and/or test on Chapter 640C NRS and NAC as a requirement for renewal of a license including the possibility of providing continuing education for the course. (For Discussion and Possible Action)

Item 12g, 19, 20, 21, 22, 23, 24, 28 were combined. Item tabled until a later date.

24. Discussion and possible action regarding creating a course covering Chapter 640C NRS and NAC to be provided by the Board including the fee for the course. (For Discussion and Possible Action)

Item 12g, 19, 20, 21, 22, 23, 24, 28 were combined. Item tabled until a later date.

25. Discussion and possible action regarding changing the meeting dates for calendar year 2019 to insure access to meeting space that provides videoconference capability. (For Discussion and Possible Action)

April Whiting motioned to approve 2019 meeting dates, seconded by Teresa Lopez. Motion carried unanimously.

26. Discussion and possible action regarding scheduling a retreat during calendar year 2019. (For Discussion and Possible Action)

No discussion was held. Item tabled until a later date.

27. Discussion and possible action regarding acceptance of the mediation agreement entered into on October 17, 2018. (For Discussion and Possible Action)

Teresa Lopez motioned to accept mediation agreement, seconded by Deirdre Strunk. Motion carried unanimously.

28. Discussion and possible action regarding appointing the Executive Director, legal counsel, and possible lobbyist to represent the Board during the 2019 Legislative Session. (For Discussion and Possible Action)

Item 12g, 19, 20, 21, 22, 23, 24, 28 were combined. Item tabled until a later date.

29. Discussion regarding CLEAR board training report. (For Discussion)

Discussion was held. No motion needed.

30. Discussion regarding recommended future agenda items. (For Discussion)

31. Public Comment

David Otto – Hello.

32. Adjournment no later than 4:30 PM (For Possible Action)

Meeting adjourned at 4:13 pm. No motion needed.

Public Comment Agenda Item: There is a time designated at the beginning of the meeting and the end of the meeting for Public Comment. Members of the general public may bring matters not appearing on this Agenda to the attention of the Board or make comment on specific Agenda Items. The Board may discuss the matters not on the Agenda, but may not act on the matters at this meeting. If the Board desires, the matters may be placed on a future Agenda for action. In consideration of others who may also wish to provide Public Comment, please avoid repetition and limit your comments to no more than three (3) minutes.

Prior to the commencement and conclusion of a contested case or a quasi-judicial proceeding that may affect the due process rights of an individual the Board may refuse to consider Public Comment.

Nevada State Board of Massage Therapy

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Supporting material for this meeting may be requested from Sandy Anderson at 775.687.9955 (sjanderson@lmt.nv.gov) and is available at the Nevada State Board of Massage Therapy, 1755 E. Plumb Lane, Suite 252, Reno, Nevada 89502.

In accordance with NRS 241.020, this public notice and agenda was posted on or before November 2, 2018, on the Nevada State Board of Massage Therapy website, <http://massagetherapy.nv.gov>, the State of Nevada's Public Notice Website, <https://notice.nv.gov>, and at the following locations:

Nevada State Board of Massage Therapy
1755 E. Plumb Lane, Suite 252
Reno, NV 89502

Grant Sawyer Building
555 E. Washington Avenue
Las Vegas, NV 89101

Nevada State Library
100 South Stewart Street
Carson City, NV 89701

Nevada Attorney General's Office
100 N. Carson Street
Carson City, NV 89701
